

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

TIMOTHY J. PAGLIARA,

Plaintiff,

v.

**JOHNSTON BARTON PROCTOR &
ROSE, LLP,**

Defendant.

Case No. 3:10-cv-00679

Judge Trauger

**DEFENDANT’S NOTICE OF NO OPPOSITION TO PLAINTIFF’S
MOTION FOR LEAVE TO SERVE INTERROGATORIES AND SET BRIEFING
SCHEDULE**

Defendant Johnston Barton Proctor & Rose, LLP (“Johnston Barton”) hereby gives notice that it does not oppose Plaintiff’s Motion for Leave to Serve Interrogatories and Set Briefing Schedule. Specifically, Johnston Barton does not oppose the service of Plaintiff’s Interrogatories directed to the issue of personal jurisdiction and does not oppose providing responses to those interrogatories, with any appropriate objections, on or before September 6, 2010. In addition, Johnston Barton does not oppose the briefing schedule proposed by Plaintiff.

Of note, prior to Plaintiff filing this Motion, Plaintiff’s counsel and Johnston Barton’s counsel had discussed Plaintiff’s proposal for discovery, including whether some of the proposed interrogatories are overbroad (agreeing that allowing service and appropriate objections on the schedule proposed by Plaintiff would be the best manner to handle such issues) and a briefing schedule, and Johnston Barton’s counsel had already informed Plaintiff’s counsel that it would agree to Plaintiff’s proposal. However, in light of Plaintiff’s service of an additional summons on an attorney from Johnston Barton in the middle of interviews at Vanderbilt University Law

School on August 17, 2010, and the manner of such service,¹ Johnston Barton's counsel informed Plaintiff's counsel that they needed an extra day to discuss Plaintiff's proposed joint motion, in light of those actions.² Plaintiff's counsel informed Johnston Barton's counsel, however, that time had run out. Plaintiff then filed his Motion.

In any event, Johnston Barton does not object to the relief requested.

Respectfully submitted,

/s/ Joseph F. Welborn, III
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John C. Hayworth (#16133)
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Attorneys for Defendant

¹ As Plaintiff raises in his memorandum in support of his motion for expedited discovery (Doc. No. 16 at ¶ 5 and n. 1), he did in fact have a Johnston Barton partner served at Vanderbilt. Specifically, as Ms. Angie McEwen, a young partner at Johnston Barton, walked toward her assigned interview room at Vanderbilt's Career Services office last Tuesday morning, there were a number of students in the hallway. Plaintiff's process server, sitting in front of the interview room, then approached Ms. McEwen in the presence of several students, other recruiting attorneys and a member of the Career Services staff, asked if she was Angie McEwen, stuck the subpoena in her hand and exited quickly. Despite the fact that Plaintiff's counsel had been in repeated contact with counsel for Johnston Barton before this incident (discussing Plaintiff's proposed expedited discovery), Plaintiff's counsel made no effort to attempt to arrange for this service in a less obtrusive or embarrassing manner.

² Plaintiff's action with respect to attempting to obtain transitory jurisdiction with the service at Vanderbilt speaks volumes about whether he believed prior thereto that Johnston Barton is subject to personal jurisdiction in this forum. Moreover, Johnston Barton does not simply agree, as requested by Plaintiff, that service of a federal court summons in a removed case in which service has previously been effected and the defendant has already lodged a motion to dismiss for lack of personal jurisdiction is either valid service or actually results in personal jurisdiction over the Defendant.

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was served via the Court's electronic filing system upon the following, this August 19, 2010:

Eugene N. Bulso, Jr.
Steven A. Nieters
414 Union Street, Suite 1740
Nashville, TN 37219

/s/ Joseph F. Welborn, III